

Brooks Myrick Walsh, MD
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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3
4 ASHLEY MYERS, Individually and)
5 as Co-Personal Representative)
6 of the Estate of Lorri Gayle)
7 Tedder; and COURTNEY VAUGHN,)
8 Individually and as Co-Personal)
9 Representative of the Estate)
10 of Lorri Gayle Tedder,)

11 Plaintiffs,)

12 vs.)

13 BOARD OF COUNTY COMMISSIONERS)
14 OF ROGERS COUNTY, et al.,)

15 Defendants.)

) Case No.

) 4:2022cv00119-JDR-JFJ

16 CERTIFIED COPY

17 * * * *

18 VIDEOCONFERENCE DEPOSITION

19 OF BROOKS MYRICK WALSH, M.D.

20 TAKEN ON BEHALF OF THE DEFENDANTS

21 TURN KEY HEALTH CLINICS, LLC AND KYLEE FOSTER

22 ON MARCH 26, 2024

23 WITH THE WITNESS LOCATED IN NEW HAVEN, CONNECTICUT

24 COMMENCING AT 9:01 A.M. CENTRAL TIME

25 * * * *

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EXHIBIT

tabbles

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1 A I can assure you, I am not going to use the
2 phrase "deliberate indifference".

3 Q That's what I was curious about. Thank you,
4 Doctor.

5 However, it's my understanding you do intend
6 on offering some standard of care opinions. So with
7 that in mind, how would you define the standard of
8 care?

9 A In this case, where a member of the nursing
10 profession or the highest -- someone who is CPR
11 trained, trained as a medical care technician,
12 trained as a nurse, sees someone who does not appear
13 to be breathing or moving, they should assess their
14 breathing and their pulse and immediately start
15 interventions if they don't find compelling evidence
16 that these are present.

17 Q Let's go about it this way. I -- Doctor,
18 the way I interpreted that answer was that that's
19 your opinion with regard to the standard of care
20 here, fair?

21 A Yeah.

22 Q Okay.

23 A Yeah, well -- yeah.

24 Q Right. So bigger picture, if someone were
25 to ask you, "Hey, Doc, I'm looking into getting

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1 believed was unsafe, right?

2 A I would never ask -- if a nurse said they
3 felt unsafe approaching a patient, I would not ask
4 that they continue with that approach.

5 Q In a correctional setting, Doctor, would you
6 agree with me that if a nurse gets involved in a use
7 of force before the scene is safe and secure, that
8 could make things worse for everyone involved?

9 A That seems too broad. I don't -- I mean,
10 yes, it could or it could not, depending --

11 Q Okay.

12 A -- on the -- you know.

13 Q Okay. So, Doctor, we'll -- we'll go about
14 it this way. You know, again, I'm a -- I'm a simple
15 guy. I like to have things kind of outlined.

16 So if we were going to say Opinion No. 1
17 that Dr. Walsh is intending on offering at the time
18 of trial, how would you articulate Opinion No. 1?

19 A Ms. Tedder died after not receiving
20 appropriate medical care following the use-of-force
21 incident, which was fully observed by Ms. Foster.

22 Q Okay. So it's your opinion that Ms. Tedder
23 did not receive appropriate medical care at the
24 Rogers County Jail. And as a result, that's what
25 caused her death; is that what you're saying?

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1 A Yes.

2 Q Okay, okay. So the next question that I
3 would say is let's talk about what you believe was
4 inappropriate care.

5 You have kind of outlined it as maybe
6 factors that support this judgment. I -- I don't
7 know the best way to go about this, Doctor. I want
8 to be as aware of your time and as effective with my
9 time to kind of figure out what it is that you base
10 that opinion on.

11 So, first off -- I just don't know any
12 better way to do this. According to your opinion, at
13 what point was the scene safe and secure enough that
14 Nurse Foster should have done an evaluation, an
15 assessment, a screening of Ms. Tedder?

16 A I haven't talked about scene safety since I
17 was a paramedic, but I think there is lots of ways to
18 judge the safety of a scene and lots of ways to do an
19 assessment from different distances.

20 I think Nurse Foster was able to evaluate
21 the patient from a safe distance, observe breathing,
22 respiratory distress, absence of respiration, all
23 from a distance that would not involve a risk of
24 being kicked or hit.

25 I think a lot of the time during which she

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1 first opinion, if I had to sum it up, is Ms. Foster
2 died because of -- Ms. Tedder died because of prone
3 restraint, and I was describing that in case there
4 was any question, you know, whether it was illegal
5 drugs or her heart having some preexisting condition.

6 I believe it's more likely than not that she
7 died because of prone restraint. I -- I -- I just
8 wanted to establish that.

9 Q Thank you.

10 A My second opinion is that despite that cause
11 of death, there was a -- to a reasonable degree of
12 medical certainty, Ms. Tedder could have recovered
13 from her cardiac arrest if Ms. Foster had responded
14 appropriately and quickly.

15 Q Okay. We will go through those in great
16 detail and I appreciate it. Like I said, I'm a
17 simple guy. I like to have it broken down like that.

18 So, again, with regard to Opinion No. 1,
19 that Ms. Tedder's death, more likely than not, was
20 caused as a result of the prone restraint, just so
21 I'm crystal clear, you don't intend on offering
22 opinions at the time of trial that Nurse Foster
23 should have directed or somehow told the jailers
24 about what type of restraint to use or not use with
25 regard to Ms. Tedder?

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1 he felt a pulse, true?

2 A He --

3 MR. HAMMONS: I think it's right here.

4 THE WITNESS: I -- I believe you said do I
5 think that he believed he found a pulse? Yes.

6 Q (By Mr. Winter) Yes, and that's what the
7 testimony -- his sworn testimony was that he did, in
8 fact, find a pulse, fair?

9 A That's what he's saying, yes.

10 Q And --

11 A I agree with that, clearly.

12 Q Perfect. And to put a finer point on that,
13 you disagree with him, based on your review of the
14 video, because you think his positioning on
15 Ms. Foster's [sic] neck, when he was attempting to
16 get the pulse, was incorrect?

17 A Yes.

18 Q Okay.

19 A It's difficult to get the correct position,
20 especially when someone is facedown, and especially
21 when there is perhaps some excess neck tissue.

22 Q Was it reasonable for Nurse Foster to have
23 taken some comfort in the fact that at that minute,
24 at that moment in time, she is being informed by the
25 jailer that, "Hey, we have got a pulse," so the

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1 patient is breathing?

2 Regardless of whether or not -- I know you
3 believe it wasn't correct. Was it reasonable for
4 Nurse Foster to be -- to have been comforted by that
5 fact?

6 MR. HAMMONS: Object to the form.

7 THE WITNESS: I -- I -- I don't think so.
8 At the time, I -- I don't know if anybody at the time
9 said that they found a pulse.

10 I -- I think Zandbergen was going through
11 the motions of looking for a pulse, but then he --
12 that person said, "Yeah, she's breathing," as I wrote
13 down in my report.

14 So I -- I don't think that should
15 necessarily give -- should have given Ms. Foster
16 confidence that that DO looked for a pulse and said,
17 "Yeah, she's breathing."

18 And I think she should also know she was the
19 one who is CPR certified, that he was looking in the
20 wrong spot for a pulse, so I don't think there should
21 have been much comfort for Ms. Foster at that point.

22 Q (By Mr. Winter) You believe it was
23 unreasonable for her to have been comforted by the
24 fact that someone, who is immediately next to
25 Ms. Tedder, stated out loud Ms. Tedder is breathing?

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1 A You know, it goes back to -- let me back it
2 up. These -- these situations, someone's life is too
3 important to risk on one isolated finding. Their
4 life or limb, we can't risk it based on one isolated
5 finding.

6 One person says they find a pulse. Even if
7 he had said, "I found a pulse," which I don't think
8 he did. We can go over the transcript from --
9 from -- from the thing.

10 The totality of the picture, she wasn't
11 moving. She wasn't making any respiratory effort.
12 In that circumstance, where they have already
13 discussed, they have had concerns about whether or
14 not she is breathing, they have voiced these
15 concerns, that DO, Zandbergen, I guess, he had enough
16 concern about her condition to go ahead and check the
17 pulse.

18 If you have enough concern that you're going
19 and checking the pulse, it almost doesn't matter what
20 the result is because there is so many other factors,
21 the whole picture, the totality, pushing you to
22 better evaluate.

23 I'll give you an example. I had a young
24 lady come in in the emergency department a couple of
25 days -- last month. Her leg was all twisted around.

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1 but if we assume that it was correct, and she's got
2 concerns about whether or not the patient is
3 breathing and whether or not the patient has a pulse,
4 and she confirms that both the patient has a pedal
5 pulse and breathing, albeit shallow, or whatever the
6 descriptors were, would it not be appropriate to then
7 go about getting a set of vital signs?

8 MR. HAMMONS: Object to the form.

9 THE WITNESS: We make -- we try to make
10 medicine simple. It's not the vital signs at this
11 point.

12 If you have a concern about the breathing,
13 you first start with A, then B, then C. If she had
14 the world's best and strongest pulse found in the
15 foot, unambiguous, even at that point she needed to
16 get that patient -- she needed to get Ms. Tedder into
17 a better position to breathe.

18 And then if it was still uneven and shallow,
19 clearly that person -- Ms. Tedder needed assistance
20 with her breathing, whether it's mouth-to-mouth, a
21 face mask, other resuscitation equipment, airway
22 breathing circulation.

23 MR. WINTER: Okay. Doc, I want to take one
24 more quick restroom break. I don't think I have got
25 a heck of a long time remaining with you.